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Karen E. Mann

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PATENT
7836XD2

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant: Keith H. Baker et al

Serial No.: 09/992,757

Group Art Unit: 1751

Filed: November 6, 2001

Examiner: E.B. Elhilo

For: **Compositions for Treating Shoes and Methods and Articles Employing Same**

TRANSMITTAL OF APPEAL BRIEF

Attn: Board of Appeals
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Submitted herewith in triplicate is an Appeal Brief in support of the Notice of Appeal filed by Certificate of Mailing on March 31, 2003 and received by the U.S. Patent and Trademark Office on April 7, 2003. Please charge the amount of \$320.00 for payment of the government fee for filing the present Appeal Brief to our Visa credit card account. Form PTO-2038 is attached.

An Amendment Under 37 C.F.R. 1.116 relating to formal matters is also submitted herewith.

Please charge any additional fees required or credit any excess in fees paid in connection with the present communication to Deposit Account No. 04-1133.

Respectfully submitted,

By: *Denise M. Everett*

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Lauren E. Mann

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Appellant: Keith H. Baker et al Paper No.:
Serial No.: 09/992,757 Group Art Unit: 1751
Filed: November 6, 2001 Examiner: E.B. Elhilo
For: **Compositions for Treating Shoes and Methods and Articles Employing Same**

APPEAL BRIEF

Attn: Board of Appeals
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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BOARD OF PATENT APPEALS
AND INTERFERENCES

Dear Sir:

The present Appeal Brief is submitted in support of the Notice of Appeal filed by certificate of mailing on March 31, 2003, and received by the U.S. Patent and Trademark Office on April 7, 2003.

I. REAL PARTY IN INTEREST

The real party in interest is the assignee of the present application, The Procter & Gamble Company of Cincinnati, Ohio.

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II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to the Appellant, the Appellant's undersigned legal representative or the assignee which will directly effect or be directly effected by or having a bearing on the Board's decision in the present appeal.

III. STATUS OF THE CLAIMS

Claims 1-14, 16-32, 35-39, 41-53 and 74 are pending in the present application. Claims 15, 33, 34, 40, 54-73 and 75 have been cancelled. Claims 1-14, 16-32, 35-39, 41-53 stand rejected and are the subject of the present appeal. A complete copy of the pending claims 1-14, 16-32, 35-39, 41-53 and 74 on appeal is set forth in the Appendix.

IV. STATUS OF AMENDMENT FILED SUBSEQUENT TO REJECTION ON APPEAL

Appellants have appealed the Examiner's final rejection of the claims set forth in the Official Action dated January 2, 2003. A Request for Reconsideration Under 37 C.F.R. 1.116, without claim amendments, was submitted by certificate of mailing on March 31, 2003. An Amendment under 37 CFR § 1.116, which requests amendment of claims 29, 31 and 32 to attend to correction of typographical errors in order to place the claims in better form for appeal is submitted herewith. The Appendix submitted herewith incorporates these amendments. In the event that the Examiner does not enter the amendments, a revised Appendix will be provided.

V. SUMMARY OF THE INVENTION

The present invention is directed to compositions for treating shoes, especially leather-containing shoes, prior to, during, and/or after washing the shoes (page 1, lines 33 - 34), for imparting one or more benefits to the shoes, and for providing effective cleaning

without significant damage, as well as to methods employing compositions for conditioning shoes such that the damage to the shoes as a result of the cleaning is mitigated if not prevented (page 3, lines 12-17).

As defined by independent claim 1, the invention is specifically directed to treating compositions for treating one or more shoes. The treating compositions comprise one or more benefit agents that impart one or more desired benefits to the shoes when the treating composition is applied directly or indirectly to the one or more shoes prior to, during and/or after washing the shoes with or in an aqueous medium. The treating composition is formulated so that any damage as a result of washing the shoes with or in an aqueous medium with application of the treating composition is reduced when compared to washing the shoes with or in an aqueous medium without application of the treating composition.

Claims 2, 7, 8, 17-20, 23, 26, 37, 42-47, 51 and 74 directly depend from and further define the compositions of claim 1. According to claim 2, the one or more benefit agents are selected from the group consisting of: cleaning agents, conditioning agents, disinfecting agents, antibacterial agents, antimicrobial agents, antifungal agents, odor control agents, waterproofing agents, soil release agents, brightening agents, alkaline pH modifiers, perfume, and mixtures thereof. According to claim 7, the one or more benefit agents comprise Ca/Mg removal agents which have a molecular weight greater than about 500. According to claim 8, the treating composition comprises no more than about 30% by weight of chromium-binding agents that are capable of binding Cr^{3+} with a log K binding constant of more than about 12. According to claim 17, the one or more benefit agents are selected such that the ratio of the water absorption into an interior surface of the one or more shoes treating by the treating composition to the water absorption into the interior surface prior to treatment with the treating composition is greater than about 0.1. According to claim 18, the one or more

benefit agents are selected such that the ratio of the friction between a surface of the shoes treated by the treating composition and a second surface to the friction between the surface prior to treatment with the treating composition and the second surface is greater than about 0.7. According to claim 19, the treating composition is applied to one or more interior surfaces of the one or more shoes; to one or more exterior surfaces of the one or more shoes, or both. According to claim 20, the treating composition has a pH, as determined in a 10% aqueous solution of the neat treating composition, in the range of from about 2.5 to about 11. Claims 21 and 22 further refine the pH ranges of claim 20 as from about 5 to about 10 and from about 6 to about 9, respectively.

According to claim 23, the treating composition comprises a conditioning composition that has a pH, as determined in a 10% aqueous solution of the neat conditioning composition, in the range of from about 2.5 to about 9. Claims 24 and 25 further refine the pH range of claim 23 as from about 3 to about 8 and from about 3.5 to about 7, respectively. According to claim 26, the treating composition comprises a cleaning composition with a pH, as determined in a 10% aqueous solution of the neat cleaning composition, in the range of from about 5 to about 11. Claims 27 and 28 further refine the pH range of claim 26 as from about 6 to about 10 and from about 7 to about 10, respectively.

According to claim 37, the treating composition comprises a phosphorous-containing compound. According to claim 42, the treating composition at least partially comprises a conditioning composition and at least some of the one or more benefit agents associated with the treating composition comprise one or more conditioning agents that imparts a conditioning benefit to the one or more shoes. According to claim 43, the treating composition at least partially comprises a cleaning composition and the benefit agents associated with the treating composition comprise one or more cleaning agents that impart a

cleaning benefit to the one or more shoes. According to claim 44 the treating composition comprises one or more cleaning agents and one or more conditioning agents, wherein the cleaning benefits and/or conditioning benefits are imparted to the shoes when the treating composition is applied to the shoes prior to, during, and/or after washing the shoes.

According to claim 45, the treating composition comprises (a) a cleaning composition comprising one or more cleaning agents capable of being applied in a manner such that the cleaning agents contact one or more exterior surfaces of the shoes, and (b) a conditioning composition physically and/or chemically separated from the cleaning composition, wherein the conditioning composition comprises one or more conditioning agents capable of being applied in a manner such that the one or more conditioning agents contacts one or more interior surfaces of the shoes. Claim 48 recites that the cleaning composition of claim 45 has a pH that is greater than the pH of the conditioning composition. Claims 49 and 50 recite that the cleaning composition of claim 45 has a pH, as determined in a 10% aqueous solution of the neat cleaning composition, that is in the range of from about 5 to about 11, and of from about 2.5 to about 9, respectively.

According to claim 46 the treatment composition comprises a liquid cleaning composition in the form of a gel, and according to claim 47, the treatment composition comprises a liquid conditioning composition. According to claim 51, the one or more desired benefits endures washing of the one or more shoes. According to claim 52, the one or more shoes comprise canvas, nylon, synthetic leather and/or natural leather-containing surfaces. Claim 53 recites the treating composition of claim 52 for treating shoes with natural leather-containing surfaces, wherein the treating composition is essentially free of bleach, particularly chlorine bleach.

Claim 74 is directed to a product comprising a benefit agent-containing composition according to claim 1 wherein the product further includes instructions for using the treating composition to treat a shoe, the instructions including the step of contacting the shoe with an effective amount of the treating composition for an effective amount of time such the composition treats the shoe.

Claims 3, 9, 12, 14, 16, 29, 30-32, 35, 38, 39, and 41 further define the compositions of claim 2. According to claim 3 the cleaning agents are selected from the group consisting of one or more surfactants, calcium/magnesium removal agents, alkaline pH modifiers, soil release agents, enzymes, and mixtures thereof and mixtures thereof. Claims 4 and 36 further define claim 3, with claim 4 reciting that the calcium/magnesium removal agents are selected from the group consisting of polycarboxylates, polyacrylates, salts of polyacrylic acids, acrylate/maleate copolymers, salts of acrylate/maleic acid copolymers, citrates, and other polycarboxylates, oxydisuccinate, polyaspartates, polyglycolates, and mixtures thereof, and claim 36 reciting that the enzymes are selected from the group consisting of cellulases and proteases. Claims 5 and 6 further define claim 4, with claim 5 reciting that the calcium/magnesium removal agents are selected from the group consisting of polyacrylates, salts of polyacrylic acids, acrylate/maleate copolymers, salts of acrylate/maleic acid copolymers, and mixtures thereof, and claim 6 reciting that the calcium/magnesium removal agents are selected from the group consisting of polyacrylates, salts of polyacrylic acids, acrylate/maleate copolymers, salts of acrylate/maleic acid copolymers and mixtures thereof wherein the average molecular weight is less than about 100,000.

According to claim 9, the cleaning agents comprise one or more surfactants, and the surfactants are selected from the group consisting of anionic, nonionic, cationic, zwitterionic, and amphophilic surfactants and mixtures thereof. Claims 10 and 11 further define claim 9,

with claim 10 reciting that the surfactants are selected from the group consisting of anionic surfactants, nonionic surfactants and mixtures thereof, and claim 11 reciting that at least some of the surfactants are nonionic surfactants comprising C₈-C₁₈ alkyl ethoxylates, with an average degree of ethoxylation from about 5 to about 15 moles of ethylene oxide per mole of alcohol, and the treating composition contains from about 1% to about 80% by weight of nonionic surfactant.

According to claim 12, the cleaning agents comprise one or more surfactants and one or more calcium/magnesium removal agents selected from the group consisting of polyacrylates, salts of polyacrylic acids, acrylate/maleate copolymers, salts of acrylate/maleic acid and mixtures thereof. Claim 13 further defines claim 12, reciting that the surfactants comprise nonionic surfactants.

According to claim 14, the conditioning agents are selected from the group consisting of acrylic syntans and other hydrophobically modified polymers, silicones, fluorocarbons, fatliquors, lecithin, fluoropolymers, sucrose polyesters, quaternary ammonium salts, oils, waxes and mixtures thereof. According to claim 16, the conditioning agents comprise one or more hydrophilic units and one or more hydrophobic units such that the ratio of hydrophilic units to hydrophobic units is from about 0.01 to about 100.

According to claim 29, the disinfecting agent is selected from the group consisting of quaternary ammonium salts, saturated and unsaturated C₈ to C₁₁ fatty acids, phenols and their salts, o-phenyl phenol and its salts, t-amyl phenol and its salts, alkyl phenols and their salts, trichlorocarbanilide, 4-chloro-3,5-dimethylphenol and its salts, chlorhexidine, phospholipids, thymol, eugenol, geraniol, oil of lemon grass, limonene, and mixtures thereof. According to claim 30, the disinfecting agent at least partially comprises a C₈ - C₁₁ fatty acid and is used at a pH < about 5.5. According to claim 31, the disinfecting agent is selected from the group

consisting of benzalkonium chlorides and/or substituted benzalkonium chlorides, dialkyl quaternary, N-(3-chloroallyl) hexaminium chlorides, benzethonium chloride, methylbenzethonium chloride, and cetylpyridinium chloride. According to claim 32, the disinfecting agent is selected from the group consisting of chlorhexidene and its salts, and polyhexamethylene biguanide hydrochloride and its salts.

According to claim 35, the treating composition is a post wash treating composition wherein the benefit agents are selected from the group consisting of soil release agents, waterproofing agents, soil release polymers, and mixtures thereof. According to claim 38, the treating composition further comprises an additional ingredient selected from the group consisting of a spreading agent, an alkaline pH modifier, and an anti-foaming agent. According to claim 39, the treating composition comprises a brightening agent which is deposited on leather and/or the midsoles of shoes as evidenced by solution depletion of about 1% or greater without visible brightener staining. According to claim 41, the treating composition comprises a perfume wherein the perfume comprises at least about 25% of substantive perfume ingredients by weight of the perfume composition.

VI. ISSUES ON APPEAL

There are four issues on appeal for review by the Board, as follows:

- A. The rejection of claims 1-7, 9-14, 16-30, 35-39, 41-45, 47-51 and 74 under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 4,767,563 to de Buzzaccarini.
- B. The rejection of claims 1-3, 9-10, 13-14, 31-32, 36, 46-47 and 52-53 under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,306,444 to Kitamura et al.
- C. The rejection of claims 1-7 and 9-14 under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,431,840 to Soldanski et al.

D. The rejection of claims 1 and 8 under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,482,644 to Nguyen et al.

VII. GROUPING OF THE CLAIMS

A. With respect to the above noted issue A on appeal, Appellants concede that claims 1-7, 9-14, 19-24, 26-29, 35-38, 41-44, 47, and 49-51 and 74 stand or fall together. However, Appellants submit that claims 16, 17, 18, 25, 30, 39, 45 and 48 are independently patentable from claim 1 from which they directly or indirectly depend. Reasons in support of the independent patentability of these claims are set forth below.

B. With respect to the above noted issue B on appeal, Appellants concede that claims 1-3, 9-10, 13-14, 31-32, 46-47 and 52-53 stand or fall together. However, Appellants submit that claim 36 is independently patentable from claim 1, from which it indirectly depends. Reasons in support of the independent patentability of claim 36 are set forth below.

C. With respect to the above noted issue C on appeal, Appellants concede that claims 1-7, 9-10 and 12-14 stand or fall together. However, Appellants submit that claim 11 is independently patentable from claim 1, from which it indirectly depends. Reasons in support of the independent patentability of this claim are set forth below.

D. With respect to the above noted issue D on appeal, Appellant submits that claim 8 is independently patentable from claim 1, from which it directly depends, for reasons set forth below.

VIII. ARGUMENTS

As will be set forth in detail below, the compositions as defined by claims 1-7, 9-14, 16-30, 35-39, 41-45, 47-51 and 74 are nonobvious over and patentably distinguishable from U.S. Patent No. 4,767,563 to de Buzzaccarini. The compositions of claims 1-3, 9-10, 13-14, 31-32, 36, 46-47 and 52-53 are nonobvious over and patentably distinguishable from U.S.

Patent No. 5,306,444 to Kitamura et al. The compositions of claims 1-7, and 9-14 are nonobvious over and patentably distinguishable from U.S. Patent No. 5,431,840 to Soldanski et al. Finally, the compositions of claims 1 and 8 are nonobvious over and patentably distinguishable from U.S. Patent No. 5,482,644 to Nguyen et al. Accordingly, the rejections of claims 1-14, 16-32, 35-39, 41-53 and 74 under 35 U.S.C. § 103(a) should be reversed. Favorable action by the Board is respectfully requested.

A. The Claimed Compositions Are Nonobvious Over de Buzzaccarini

The compositions as defined by claims 1-7, 9-14, 16-30, 35-39, 41-45, 47-51 and 74 are nonobvious over and patentably distinguishable from de Buzzaccarini.

1. The Examiner's Position

In rejecting claims 1-7, 9-14, 16-30, 35-39, 41-45, 47-51 and 74 under 35 U.S.C. § 103(a) as being obvious over de Buzzaccarini, the Examiner asserts that de Buzzaccarini teaches a liquid cleaning composition for providing cleaning characteristics for removing grease/oily soils and inorganic particulate soils "that deposit on polished shoes." The Examiner points specifically to column 2, lines 7-9 of de Buzzaccarini in support of this assertion. The Examiner maintains that the reference discloses compositions comprising surfactants, polyacrylates, alkanol ammonium salts of fatty acids, deterative enzymes, water soluble phosphates, alkaline pH modifiers, optical brighteners and perfumes. The Examiner further asserts that it would have been obvious to estimate the ratio of water absorption on the shoes and the ratio of friction between shoes and to include instructions for use. Based on these contentions, the Examiner concludes that it would have been obvious to use the reference compositions for cleaning or treating shoes since the composition comprises similar ingredients and therefore should have similar properties.

2. **Prima Facie Obviousness is not Established**

Despite the Examiner's contention to the contrary, Appellants find no teaching or suggestion in de Buzzaccarini that the reference compositions may be applied to shoes, and, in fact, the de Buzzaccarini compositions inherently act in a manner inimical to the instant invention as defined by independent claim 1. Claim 1 is directed to treating compositions for shoes and recites, *inter alia*, that the compositions are "*formulated so that any damage as a result of washing the one or more shoes with or in an aqueous medium with application of the treating composition is reduced compared to washing the one or more shoes with or in an aqueous medium without application of the treating composition.*" The de Buzzaccarini compositions, on the other hand are intended to clean hard surfaces and all the de Buzzaccarini compositions comprise, *inter alia*, abrasives, which one of ordinary skill in the art will recognize, will increase, rather than decrease, damage to the one or more shoes.

Appellants submit that the disclosure in the reference (column 2, line 9) pointed to by the Examiner as suggestive of application to shoes, actually discloses the suitability of the deBuzzaccarini compositions for removing shoe polish from hard surfaces. It is clear both from the context of that paragraph wherein shoe polish is listed along side marker ink as typical soils, and in column 6, lines 20-24 wherein the comparative performance of various exemplar compositions is discussed with respect to removal of black shoe polish spread on a PVC tile.

Furthermore, all the de Buzzaccarini exemplar compositions, and all the compositions defined by the de Buzzaccarini claims contain abrasives. These abrasives are disclosed as either inorganic particulates such as diatomaceous earth, or certain organic polymers which behave as abrasives when used in *powder* form (col.7, 33-36). While these abrasive-containing compositions are taught as safe for "porcelain and stainless steel", there is nothing

in the de Buzzaccarini disclosure to counter the obvious conclusion that such abrasive-containing compositions would, in fact, increase wash-related shoe damage.

To establish prima facie obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). Furthermore, references relied upon to support a rejection under 35 U.S.C. §103 must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public, *In re Payne*, 203 U.S.P.Q. 245 (CCPA 1979). Since the reference fails to teach or suggest compositions which are formulated to decrease wash-related damage to shoes, as required by claim 1, and since the reference disclosures teach compositions which would inherently act to increase wash-related damage to shoes, de Buzzaccarini does not render the treating compositions defined by claim 1 obvious. Accordingly, the rejection of independent claim 1, and dependent claims 2-7, 9-14, 16-30, 35-39, 41-45, 47-51 and 74 under 35 U.S.C. § 103 based on de Buzzaccarini should be reversed.

3. **The Compositions of Claim 16 are Independently Patentable**

Claim 16 is directed to a treating composition as recited in claim 1 wherein the one or more benefit agents comprise conditioning agents and wherein the conditioning agents comprise one or more hydrophilic units and one or more hydrophobic units, such that the ratio of hydrophilic units to hydrophobic units is from about 0.01 to about 100. Applicants fail to find any teaching or suggestion by de Buzzaccarini of such conditioning agents, either in the broad teachings at columns 3-5 or in any of the exemplar compositions. In addition, there is nothing about the intended utility of the de Buzzaccarini compositions that would inherently suggest such a limitation. de Buzzaccarini teaches hard surface scouring cleansers and is not concerned with the instant motivations of formulations for reducing wash-related

damage, for example with conditioning agents for maintaining suppleness, minimizing sockliner fibrillation and/or minimizing seam abrasion in shoes.

To establish prima facie obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d at 981, *supra*. The reference fails to teach a conditioning agent having the hydrophilic to hydrophobic limitation of claim 16, and therefore claim 16 is nonobvious, and therefore independently patentable, over de Buzzaccarini. Accordingly, the rejection of claim 16 should be reversed.

4. **The Compositions of Claim 17 are Independently Patentable**

The treating compositions of claim 17 require that the benefit agents be selected such that the ratio of the water absorption into an interior surface of the shoes treated by the treating composition to the water absorption into the interior surface prior to treatment with the treating composition is greater than about 0.1. Appellants find no teaching in de Buzzaccarini directed toward the selection and application of benefit agents such that the interior of a post treated shoe absorbs greater than about one tenth the amount of water it did prior to treatment. The effect of this limitation is to preclude from the scope of the instant treatment compositions those which would impact the shoe material in such a way that water absorption is unacceptably impeded. For example, heavy waxes or plastic coatings may have this undesirable effect.

To establish prima facie obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d at 981, *supra*. Appellant submits that the reference not only fails to suggest shoe treatment, but also fails with respect to this particular limitation on the extent of treatment as well. Hence, claim 17 is nonobvious, and therefore independently patentable, over de Buzzaccarini. Accordingly the rejection of claim 17 should be reversed.

5. **The Compositions of Claim 18 are Independently Patentable**

The treating compositions of claim 18 require that the benefit agents be selected such that the ratio of the friction between a surface of the shoes and a second surface to the friction between the surface prior to treatment and the second surface is greater than about 0.7. Appellants find no teaching or suggestion of this limitation in the reference, nor do they find anything inherent to the compositions disclosed by de Buzzaccarini which would suggest this limitation. Treatment compositions comprising abrasives, such as those of de Buzzaccarini, may increase or decrease the friction between washed surfaces, depending on the nature of the surface substrate. Formulation of the de Buzzaccarini compositions is not motivated by concern for their impact on the surface characteristics of fibrous or leather materials.

To establish prima facie obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d at 981, *supra*. Appellant submits that the reference not only fails to suggest shoe treating compositions, but also fails with respect to this particular limitation on the nature and impact of the treating compositions as recited in claim 18. Hence, claim 18 is nonobvious over, and therefore independently patentable, over de Buzzaccarini. Accordingly, the rejection of claim 18 should be reversed.

6. **The Compositions of Claim 25 are Independently Patentable**

The treating compositions of claim 25 comprises a conditioning composition that has a pH, as defined, in the range of from about 3.5 to about 7. The de Buzzaccarini compositions, on the other hand, are formulated in the alkaline pH range (see column. 5, lines 14-19). In fact, the broadest de Buzzaccarini pH range disclosed is 8-11, which is entirely outside the range recited in claim 25.

To establish prima facie obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d at 981, *supra*. Appellant submits that the reference fails to teach, suggest or disclose any compositions within the pH range recited by claim 25. Hence, claim 25 is nonobvious and independently patentable over de Buzzaccarini. Accordingly, the rejection of claim 25 should be reversed.

7. **The Compositions of Claim 30 are Independently Patentable**

The treating compositions of claim 30 require that the benefit agent comprises a disinfecting agent and that the disinfecting agent at least partially comprises a C₈-C₁₀ fatty acid and is used at a pH < about 5.5. Appellants submit that de Buzzaccarini teaches only compositions in an alkaline pH range (see column 5, lines 14-19). Appellants further submit that it would therefore be impossible to use the requisite fatty acid ingredient at an acidic pH, since, within the meaning of the claim, the fatty acid ingredient is used as a constituent of the composition as a whole.

To establish prima facie obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d at 981, *supra*. Furthermore, references relied upon to support a rejection under 35 U.S.C. §103 must provide an enabling disclosure, i.e., they must place the claimed invention in the possession of the public, *In re Payne*, 203 U.S.P.Q. at 245, *supra*. Hence, claim 30 is nonobvious and , is independently patentable over de Buzzaccarini. Accordingly, the rejection of claim 30 should be reversed.

8. **The Compositions of Claim 39 are Independently Patentable**

The treating compositions of claim 39 comprise a brightening agent which is deposited on leather and/or the midsoles of shoes as evidenced by solution depletion of about

1% or greater without visible brightener staining. Appellants concede that de Buzzaccarini mentions optical brighteners as examples of typical additives to commercial detergent compositions (column 4, lines 54-62). However, instant claim 39 recites a very specific brightening agent limitation, i.e. only those capable of deposition on leather and/or midsoles of shoes as measured by the amount removed from solution, without visible brightener staining. Appellants submit that determination of suitable brightening agents on the basis of efficacy on shoes as presently claimed is not disclosed, suggested or motivated by de Buzzaccarini, which is directed to hard surface scouring cleansers.

To establish prima facie obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d at 981, *supra*. The broad teachings of a reference cannot preclude establishment of unobviousness for a specifically claimed invention not anticipated by the reference. *In re Orfeo*, 169 USPQ 487 (CCPA 1971). Buzzaccarini fails to teach or suggest brightening agents selected for their efficacy with respect to shoes. The compositions of claim 39, on the other hand, require such a selection. Hence, claim 39 is nonobvious and independently patentable over de Buzzaccarini. Accordingly, the rejection of claim 39 should be reversed.

9. **The Compositions of Claims 45 and 48 are Independently Patentable**

The treating compositions of claim 45 comprise (a) a cleaning composition comprising one or more cleaning agents capable of being applied in a manner such that the cleaning agents contact exterior surfaces of the shoes, and (b) a conditioning composition physically and/or chemically separated from the cleaning composition, comprising conditioning agents capable of being applied in a manner such that they contact interior surfaces of the shoe. The compositions of claim 48, which depend from claim 45, require that the cleaning composition have a pH greater than the pH of the conditioning composition.

de Buzzaccarini, on the other hand, teaches homogeneous compositions with respect to the additive agents and, Appellants submit, fails to teach or suggest a conditioning composition physically and/or chemically separated from a cleaning composition, or any physical or chemical separation of compositions. In other words, de Buzzaccarini may suggest compositions having both cleaning and conditioning components, but fails to teach these components as compositions separated from one another. According to claim 48, the pH of the components comprise separate cleaning and conditioning compositions. Hence, de Buzzaccarini inherently fails to disclose the limitations of claim 48.

It is common to find features somewhere in the prior art, but it is not features but the subject matter as a whole that must be evaluated under 35 USC § 103. *Connell v. Sears, Roebuck & Co.* 722 F.2d 1542, 220 USPQ 193 (Fed.Cir. 1983). Additionally, to establish prima facie obviousness of the claimed invention, all the claim limitations must be taught or suggested by the prior art, *In re Royka*, 490 F.2d at 981, *supra*. Appellants submit that the uniquely dual nature of the compositions defined by claims 45 and 48 with respect to cleaning and conditioning compositions is patentably distinct from the homogeneous compositions of de Buzzaccarini. Hence, claims 45 and 48 are nonobvious and independently patentable over de Buzzaccarini. Accordingly, the rejection of claims 45 and 48 should be reversed.

B. The Claimed Compositions Are Nonobvious Over Kitamura

The compositions as defined by claims 1-3, 9-10, 13-14, 31-32, 36, 46-47 and 52-53 are nonobvious over and patentably distinguishable from Kitamura et al.

1. **The Examiner's Position**

The Examiner asserts that Kitamura teaches detergent compositions for shoe cleaner and shoe polish, further asserting that the detergent compositions comprise sterilizers such as benzalkonium chloride and chlorohexyline gluconate, perfumes, surfactants such as anionic and nonionic surfactants and oil, and that they may be in any form, such as liquid, lotion, cream or solid. The Examiner contends that the instant claims differ from the reference by reciting cleaning compositions for leather shoes, but concludes that it would be obvious to one having ordinary skill in the art to use such compositions for cleaning leather shoes because Kitamura teaches a leather product detergent for cleaning shoes and a person of ordinary skill in the art would expect such detergent compositions to have similar properties to those claimed.

2. **Prima Facie Obviousness is not Established**

As detailed previously, instant independent claim 1 is directed to a treating composition for treating one or more shoes. Significantly, the treating composition is *formulated so that any damage as a result of washing the one or more shoes with or in an aqueous medium with application of the treating composition is reduced compared to washing the one or more shoes with or in an aqueous medium without application of the treating composition.*

Kitamura discloses a detergent composition for domestic or business use or a skin cleanser composition comprising compounds having a protease inhibitory activity, being harmless to the human body, and being deterative to a variety of substrates. In other words, the motivation of Kitamura is to provide detergent compositions with agents which condition and/or protect human skin. The Kitamura reference to shoe cleaners at column 3, lines 8-10 is in the context of exhaustively listing the types of prior art detergents contemplated as

comprising the deterative aspect of the Kitamura composition. Kitamura discloses the addition of a protease inhibitor to the detergent, whatever the intended substrate to be cleaned. The Kitamura specification also teaches an optional third additive component which must be "dermatologically acceptable" (col. 5, line 40), and can comprise, *inter alia*, surfactants, abrasives, perfumes, oils, bleaching agents and sterilizers. The Kitamura protease inhibitor comprises either a leupeptin-derived protease inhibitor or a ω -amino acid represented by the formula $\text{NH}_2(\text{CH}_2)_n\text{COOH}$.

Significantly, while the Kitamura compositions comprise some of the same ingredients as the present inventive compositions, Appellants find no teaching that the Kitamura ingredients are *formulated so that any damage as a result of washing the one or more shoes with or in an aqueous medium with application of the treating composition is reduced compared to washing the one or more shoes with or in an aqueous medium without application of the treating composition*. While Kitamura suggests that detergent composition for shoes can serve as the deterative aspect to which the requisite protease inhibitors are added, detergent for cleaning shoes does not define the present inventive compositions, and such typical prior art detergents are not within the scope of the instant invention. The present treating compositions comprise benefit agents, which are defined in the specification on page 8 as "any agent that can impart a consumer-recognizable or measurable benefit to an article, such as a shoe, and which are uniquely formulated to reduce the relative damage a shoe typically sustains upon being washed. It is not "cleaning" ingredients for shoes, but a composition formulated to *reduce wash-related relative damage to shoes* that patentably distinguishes the present inventive treating compositions over Kitamura. While the present disclosure lists possible ingredients which overlap with some of the ingredients of Kitamura, only the present invention selects ingredients according to those which allow formulation of a composition having the requisite relative damage-reducing function. There is no teaching or

suggestion in Kitamura of formulation, including selection of ingredients, according to any concern for potential damage to the one or more shoes intended to be cleaned. There are no examples or other disclosures in Kitamura which reflect the present selective limitation, even inherently. The protease inhibitors of Kitamura act to debilitate the protease enzyme benefit agents of the instant invention (see specification, page 65), and any other benefit agent which relies on catalysis of peptide bonds for its activation and/or efficacy, for example, some of the instantly disclosed odor control agents, bactericides, and enzymes.

"There must be a teaching or suggestion within the prior art, within the nature of the problem to be solved, or within the general knowledge of a person of ordinary skill in the field of the invention, to look to particular sources, to select particular elements, and to combine them as combined by the inventor. *Ruiz v. A.B. Chance Co.*, 234 F.3d 654, 665, 57 USPQ 2d 1161, 1167 (Fed. Cir. 2000). The selection mechanism of independent claim 1 is not disclosed or suggested by the teachings of Kitamura. Compositions formulated to solve the problems addressed by Kitamura do not inherently decrease wash-related damage to shoes. In fact, the protease inhibiting agents present in all Kitamura compositions and processes act to counter benefit agents instantly disclosed. Hence, the present treating compositions, which are formulated to reduce the wash-related damage to shoes, are nonobvious and patentably distinguishable over Kitamura. Accordingly, the rejection of claims 1-3, 9-10, 13-14, 31-32, 36, 46-47, and 52-53 under 35 U.S.C. § 103 based on Kitamura should be reversed.

3. **The Compositions of Claim 36 are Independently Patentable over Kitamura**

Claim 36, directly dependent from claim 3 and indirectly dependent from claim 1, is directed to treating compositions comprising a cleaning agent comprising enzymes selected

from the group consisting of cellulases and proteases. As detailed *supra*, the compositions of Kitamura all comprise protease inhibitors. In fact, Kitamura specifically discloses that the protease inhibitor additive is what distinguishes the inventive compositions over the prior art. A protease inhibitor, generally defined and also according to Kitamura, disables the functioning of proteolytic enzymes. Protease inhibitors inhibit the catalysis of peptide bonds, (see column 3 lines 27-40), and are not among the benefit agents presently disclosed as suitable in formulation of the present compositions according to the recited requirements.

Significantly, Kitamura independent claim 1 specifically excludes proteases from the disclosed compositions, reciting a washing composition "containing at least one surfactant but not containing protease..." Thus, Kitamura teaches away from the compositions of claim 36. It is error to find obviousness where references diverge from and teach away from the invention at hand. *In re Fine*, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988). Hence, claim 36 is nonobvious and independently patentable over Kitamura. Accordingly, the rejection of claim 36 should be reversed.

C. The Claimed Compositions Are Nonobvious Over Soldanski et al

The compositions as defined by claims 1-7 and 9-14 are nonobvious over and patentably distinguishable from Soldanski et al.

1. The Examiner's Position

The Examiner asserts that Soldanski teaches cleaning compositions for leather shoes comprising cleaning agents, anionic and nonionic surfactants, polyacrylates, fragrances, C₁₂₋₁₄ fatty alcohol ethoxylates and wax. The Examiner further asserts that the instant claims differ from the reference by reciting alkyl ethoxylates "with an average degree of ethoxylation." However, the Examiner contends that it would have been obvious to one

having ordinary skill in the art to make such a composition because the reference teaches ethoxylated compounds that have alkyl ethoxylates within the limits of the alkyl ethoxylates of the claimed compounds and would therefore have similar properties to those claimed.

2. **Prima Facie Obviousness is not Established**

Appellants submit that independent claim 1, fully discussed *supra*, is nonobvious over Soldanski. As noted previously, the treating compositions of instant claim 1 are formulated so that *any damage as a result of washing the one or more shoes with or in an aqueous medium with application of the treating composition is reduced compared to washing the one or more shoes with or in an aqueous medium without application of the treating composition.*

On the other hand, Soldanski teaches detergent compositions in the form of wax emulsions, suitable for a wide variety of substrates. Soldanski's stated improvement over prior art wax emulsion detergents is utilization of alkyl glycosides as the wax emulsifier. The reference does indeed suggest the specific suitability of the emulsions for the cleaning of shoes. However, Appellants find no teaching, suggestion, or exemplary disclosure of a treatment composition which is specifically formulated to reduce wash-related damage to shoes, as required by the instant claims. Appellants concede that detergents for cleaning shoes exist, and have existed for a substantial time. In fact, such detergents are factored into the problem that Appellant's invention is asserted to solve, i.e. excessive wash-related damage to shoes. Such a typical detergent is not within the scope of Appellant's claims. Rather, the treating compositions of the instant invention are defined, *inter alia*, as treatment compositions *formulated so that any damage as a result of washing the shoes in an aqueous medium with application of the treating composition is reduced when compared to washing the shoes in an aqueous medium without application of the treating composition.* Appellants find no teaching or suggestion in this regard by Soldanski. Accordingly, Soldanski does not

render the present compositions of claims 1-7 and 9-14 obvious under 35 U.S.C. § 103. The rejection should therefore be reversed.

3. **The Compositions of Claim 11 are Independently Patentable over Soldanski**

Claim 11, which is directly dependent from claim 9 and indirectly dependent from claim 1, recites, *inter alia*, compositions comprising one or more surfactant cleaning agents comprising C₈-C₁₈ alkyl ethoxylates with an average degree of ethoxylation from about 5 to about 15 moles of ethylene oxide per mole of alcohol. While some of the Soldanski compositions comprise C₁₂₋₁₄ fatty alcohol ethoxylates, Appellants find no teaching or suggestion via example or otherwise of ethoxylates which exhibit an average degree of ethoxylation of from about 5 to about 15 moles ethylene oxide (EO) per mole of alcohol. In fact, the Soldanski claim 7 and all the Soldanski exemplar compositions disclose ethoxylates having only 4 moles of EO per mole of alcohol. Appellants submit that Soldanski's restriction to degrees of ethoxylation below that of the instant compositions is intentional because it comports with their stated desire to avoid the use of highly ethoxylated fatty alcohols (column 1, lines 28-32, and column 4, lines 23-25).

It is error to find obviousness where references diverge from and teach away from the invention at hand. *In re Fine*, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988). "A reference may be said to teach away when a person of ordinary skill, upon reading it, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path taken by the inventor." *Monarch Knitting Mach. Corp. v. Sulzer Morat GmbH*, 139 F.3d 877, 45 (Fed. Cir. 1995). Appellants submit that a person of ordinary skill in the art following the teachings of Soldanski, would not be motivated to formulate the instant compositions, since Soldanski specifically teaches away from the instant range of alkyl

ethoxylates. Hence, claim 11 is nonobvious and independently patentable over Soldanski. Accordingly, the rejection should be reversed.

D. The Claimed Compositions Are Nonobvious Over Nguyen et al

The compositions as defined by claims 1 and 8 are nonobvious over and patentably distinguishable from Nguyen et al.

1. The Examiner's Position

The Examiner asserts that Nguyen teaches detergent composition for cleaning athletic shoes. The Examiner further asserts that the Nguyen compositions comprise surfactants such as coconut oil, and liquid detergent for binding heavy metal such as chromium. The Examiner contends that the instant claims differ from the reference by reciting chromium binding agents capable of binding Cr with a log K binding constant of more than about 12, and concludes that it would have been obvious to one having ordinary skill in the art to make such a cleaning composition because the reference teaches detergent compositions that bind and remove traces of heavy metals, such as Cr, and would therefore expect such a composition to have similar properties to those claimed, absent unexpected results.

2. The Claimed Compositions Are Nonobvious Over Nguyen et al

The treating compositions of instant independent claim 1, fully discussed *supra*, require that the compositions be "*formulated so that any damage as a result of washing shoes with or in a aqueous medium with application of the treating composition is reduced as compared with washing the shoes with or in an aqueous medium without application of the treating composition.*" Nguyen merely discloses typical detergent compositions suitable for a variety of substrates, additionally comprising chelating agents intended to remove heavy metals (col.2, lines 29-34). Appellants find no teaching or suggestion by Nguyen for

providing the damage reduction, and no evidence that the reference compositions could inherently provide such an effect.

The instant specification defines the "benefit agents" of claim 1 as any agent that can impart a consumer recognizable and/or measurable benefit to an article, and includes, as an example, cleaning agents (see "Definitions", page 8, line 20). Appellants recognize that Nguyen teaches detergents, and even suggests application of such detergents to shoes. However, the detergents do not render compositions comprising the instant "cleaning agents" obvious, because they are neither specifically nor apparently inherently formulated to reduce wash-related damage to shoes.

Appellants find no teaching or suggestion in Nguyen that wash-related damage is even a concern. In fact, the requirement by Nguyen that chelating agents, exemplified throughout the specification by EDTA, be included in all the compositions is inimical to the instant damage-reduction element. Nguyen specifically teaches chelating agents for the removal of transition metals, "including chromium." The instant specification, on the other handed, recognizes chromium as important to maintaining the quality of leather, and specifically teaches against the inclusion of agents which bind and remove chromium from the compositions. Clearly, since every Nguyen composition comprises Cr removal agents, they all potentially inherently increase wash-related shoe damage with respect to leather-containing shoes. Hence, one skilled in the art will appreciate that the Nguyen compositions do not teach or suggest the mandate of the damage reduction formulation of present independent claim 1.

In order to render a claimed invention obvious, prior art must enable one skilled in the art to make and use the claimed invention, *Motorola, Inc. v. Interdigital Tech. Corp.*, 43 U.S.P.Q.2d 1481, 1489 (Fed. Cir. 1997). It is error to find obviousness where references

diverge from and teach away from the invention at hand. *In re Fine*, 5 U.S.P.Q. 2d at 1599 *supra*. Nguyen is not concerned with wash related shoe damage. In fact, Nguyen teaches compositions that bind and remove transition metals indiscriminately, therefore binding and removing chromium, an element essential to maintaining leather quality. Hence, the teachings of Nguyen do not enable the instant invention and the instant invention is therefore nonobvious over Nguyen. Accordingly, the rejections of claims 1 and 8 should be reversed.

4. **The Compositions of Claim 8 are Independently Patentable**

The composition embodiment of claim 8 is directed to the problem, neither acknowledged nor addressed by Nguyen, of the incidental chromium binding and removal that occurs when agents useful in removing unwanted calcium and magnesium ions also effectively bind and remove transition metals such as chromium. In fact, every Nguyen composition, as defined by the claims and exemplified in the specification, contains such agents. Appellants submit that the Examiner has misread instant claim 8. As noted above, the Examiner asserts that both Nguyen and the present invention teach the inclusion of Cr binding agents. This is an incorrect interpretation of claim 8. Taken both literally and in light of the specification, present claim 8 teaches minimization of chromium binding agents in order to avoid removing chromium-based tanning materials, essential to maintaining the quality of leather (see instant specification, pages 16 and 17 for discussion on importance of chromium in leather arts). On the other hand, every composition defined by the Nguyen claims includes chromium binding agents, and, in fact, the essence of the novelty of the Nguyen invention is this inclusion.

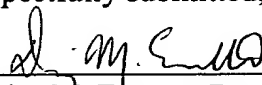
It is error to find obviousness where references diverge from and teach away from the invention at hand. *In re Fine*, 5 U.S.P.Q.2d 1596, 1599 (Fed. Cir. 1988) "A reference may be said to teach away when a person of ordinary skill, upon reading it, would be discouraged

from following the path set out in the reference, or would be led in a direction divergent from the path taken by the inventor." *Monarch Knitting Mach. Corp. v. Sulzer Morat GmbH*, 139 F.3d 877, 45 (Fed. Cir. 1995). Obviousness must be construed in light of the problem facing the inventor. *Northern Telecom, Inc. v. Datapoint Corp.*, 908 F.2d 931, 15 USPQ 2d 1321 (Fed.Cir. 1990). Since Nguyen is not motivated by concern for maintaining leather quality, the Nguyen compositions intentionally comprise agents which bind transition metals indiscriminately in terms of both amount and binding affinity for chromium. Since Nguyen teaches away from instant claim 8, it is nonobvious and independently patentable over Nguyen. Accordingly, the rejection should be reversed.

IX. CONCLUSIONS

For the reasons set forth in detail above, the compositions defined by the claims 1-7, 9-14, 16-30, 35-39, 41-45, 47-51 and 74 are nonobvious over and patentably distinguishable from de Buzzaccarini; the compositions of claims 1-3, 9-10, 13-14, 31-32, 36, 46-47 and 52-53 are nonobvious over and patentably distinguishable from Kitamura et al; the compositions of claims 1-7 and 9-14 are nonobvious over and patentably distinguishable from Soldanski et al; and the compositions of claims 1 and 8 are nonobvious over and patentably distinguishable from Nguyen et al. Accordingly, the rejections of claims 1-14, 16-32, 35-39, 41-53 and 74 under 35 U.S.C. §103 should be reversed. Favorable action by the Board is respectfully requested.

Respectfully submitted,


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APPENDIX

1. A treating composition for treating one or more shoes, said treating composition comprising one or more benefit agents that imparts one or more desired benefits to the one or more shoes when the treating composition is applied directly or indirectly to the one or more shoes prior to, during and/or after washing the one or more shoes with or in an aqueous medium, wherein said treating composition is formulated so that any damage as a result of washing the one or more shoes with or in an aqueous medium with application of the treating composition is reduced compared to washing the one or more shoes with or in an aqueous medium without application of the treating composition.
2. The treating composition according to Claim 1 where in the one or more benefit agents is selected from the group consisting of: cleaning agents, conditioning agents, disinfecting agents, antibacterial agents, antimicrobial agents, antifungal agents, odor control agents, waterproofing agents, soil release agents, brightening agents, alkaline pH modifiers, perfume, and mixtures thereof.
3. The treating composition according to Claim 2 where in the cleaning agents are selected from the group consisting of: one or more surfactants, calcium/magnesium removal agents, alkaline pH modifiers, soil release agents, enzymes, and mixtures thereof.
4. The treating composition according to Claim 3 wherein the one or more calcium/magnesium removal agents are selected from the group consisting of polycarboxylates, polyacrylates, salts of polyacrylic acids, acrylate/maleate copolymers, salts of acrylate/maleic acid copolymers, citrates, ether polycarboxylates, oxydisuccinate, polyaspartates, polyglycolates, and mixtures thereof.
5. The treating composition of Claim 4 wherein the one or more calcium/magnesium removal agents are selected from the group consisting of: polyacrylates, salts of polyacrylic

acids, acrylate/maleate copolymers, salts of acrylate/maleic acid copolymers, and mixtures thereof.

6. The treating composition of Claim 4 wherein the one or more calcium/magnesium removal agents are selected from the group consisting of: polyacrylates, salts of polyacrylic acids, acrylate/maleate copolymers, salts of acrylate/maleic acid copolymers and mixtures thereof wherein the average molecular weight is less than about 100,000.

7. A treating composition according to Claim 1 wherein the one or more benefit agents comprise Ca/Mg removal agents which have a molecular weight of greater than about 500.

8. A treating composition of Claim 1 which comprises no more than about 30% by weight of the treating composition of chromium-binding agents that are capable of binding Cr^{3+} with a log K binding constant of more than about 12.

9. The treating composition of Claim 2 wherein the cleaning agents comprise one or more surfactants, and the one or more surfactants are selected from the group consisting of: anionic, nonionic, cationic, zwitterionic, and amphiphilic surfactants and mixtures thereof.

10. The treating composition of Claim 9 wherein the one or more surfactants are selected from the group consisting of anionic surfactants, nonionic surfactants and mixtures thereof.

11. The treating composition of Claim 9 wherein at least some of the one or more surfactants are nonionic surfactants comprising $\text{C}_8\text{-C}_{18}$ alkyl ethoxylates, with an average degree of ethoxylation from about 5 to about 15 moles of ethylene oxide per mole of alcohol, and the treating composition contains from about 1% to about 80% by weight of nonionic surfactant.

12. The treating composition of Claim 2 where in the cleaning agents comprise one or more surfactants and one or more calcium/magnesium removal agents selected from the group consisting of polyacrylates, salts of polyacrylic acids, acrylate/maleate copolymers, salts of acrylate/maleic acid and mixtures thereof.
13. The treating composition of Claim 12 wherein the surfactants comprise nonionic surfactants.
14. The treating composition according to Claim 2 wherein the conditioning agents are selected from the group consisting of: acrylic syntans and other hydrophobically modified polymers, silicones, fluorocarbons, fatliquors, lecithin, fluoropolymers, sucrose polyesters, quaternary ammonium salts, oils, waxes and mixtures thereof.
16. The treating composition according to Claim 2 wherein the conditioning agents comprise one or more hydrophilic units and one or more hydrophobic units such that the ratio of hydrophilic units to hydrophobic units is from about 0.01 to about 100.
17. The treating composition of Claim 1 wherein the one or more benefits agents are selected such that the ratio of the water absorption into an interior surface of the one or more shoes treated by the treating composition to the water absorption into the interior surface prior to treatment with the treating composition is greater than about 0.1.
18. The treating composition of Claim 1 wherein the one or more benefit agents are selected such that the ratio of the friction between a surface of the one or more shoes treated by the treating composition and a second surface to the friction between the surface prior to treatment with the treating composition and the second surface is greater than about 0.7.

19. The treating composition of Claim 1 wherein said treating composition is applied: to one or more interior surfaces of the one or more shoes; to one or more exterior surfaces of the one or more shoes; or both.
20. The treating composition of Claim 1 which has a pH, as determined in a 10% aqueous solution of the neat treating composition, in the range of from about 2.5 to about 11.
21. The treating composition of Claim 20 which has a pH, as determined in a 10% aqueous solution of the neat treating composition, in the range of from about 5 to about 10.
22. The treating composition of Claim 21 which has a pH, as determined in a 10% aqueous solution of the neat treating composition, in the range of from about 6 to about 9.
23. The treating composition of Claim 1 which comprises a conditioning composition that has a pH, as determined in a 10% aqueous solution of the neat conditioning composition, that is in the range of from about 2.5 to about 9.
24. The treating composition of Claim 23 which comprises a conditioning composition that has a pH, as determined in a 10% aqueous solution of the neat conditioning composition, that is in the range of from about 3 to about 8.
25. The treating composition of Claim 24 which comprises a conditioning composition that has a pH, as determined in a 10% aqueous solution of the neat conditioning composition, that is in the range of from about 3.5 to about 7.
26. The treating composition of Claim 1 which comprises a cleaning composition that has a pH, as determined in a 10% aqueous solution of the neat cleaning composition, in the range of from about 5 to about 11.

27. The treating composition of Claim 26 which comprises a cleaning composition that has a pH, as determined in a 10% aqueous solution of the neat cleaning composition, in the range of from about 6 to about 10.

28. The treating composition of Claim 27 which comprises a cleaning composition that has a pH, as determined in a 10% aqueous solution of the neat cleaning composition, in the range of from about 7 to about 10.

29. The treating composition according to Claim 2 wherein the disinfecting agent is selected from the group consisting of: quaternary ammonium salts, saturated and unsaturated C₈ to C₁₁ fatty acids, phenols and their salts, o-phenyl phenol and its salts, t-amyl phenol and its salts, alkyl phenols and their salts, trichlorocarbanilide, 4-chloro-3,5-dimethylphenol and its salts, chlorhexidine, phospholipids, thymol, eugenol, geraniol, oil of lemon grass, limonene, and mixtures thereof.

30. The treating composition according to Claim 2 wherein the disinfecting agent at least partially comprises of C₈-C₁₀ fatty acid, and is used at a pH < about 5.5.

31. The treating composition according to Claim 2 wherein the disinfecting agent is selected from the group consisting of: (1) benzalkonium chlorides and/or substituted benzalkonium chlorides; (2) dialkyl quaternary; (3) N-(3-chloroallyl) hexaminium chlorides; (4) benzethonium chloride; (5) methylbenzethonium chloride; and (6) cetylpyridinium chloride.

32. The treating composition according to Claim 2 wherein the disinfecting agent is selected from the group consisting of: chlorhexidene and its salts, and polyhexamethylene biguanide hydrochloride and its salts.

35. A post wash treating composition according to Claim 2 wherein the benefit agents are selected from the group consisting of: soil release agents, waterproofing agents, soil release polymers, and mixtures thereof.
36. A treating composition according to Claim 3 comprising enzymes selected from the group consisting of cellulases and proteases.
37. A treating composition according to Claim 1 which comprises a phosphorous-containing compound.
38. A treating composition according to Claim 2 further comprising an additional ingredient selected from the group consisting of: a spreading agent, an alkaline pH modifier, and an anti-foaming agent.
39. The treating composition according to Claim 2 comprising a brightening agent which is deposited on leather and/or the midsoles of shoes as evidenced by solution depletion of about 1% or greater without visible brightener staining.
41. The treating composition according to Claim 2 comprising a perfume wherein said perfume comprises at least about 25% of substantive perfume ingredients, by weight of the perfume composition.
42. A treating composition according to Claim 1 which at least partially comprises a conditioning composition and at least some of the one or more benefit agents associated with the treating composition comprise one or more conditioning agents that imparts a conditioning benefit to the one or more shoes.
43. A treating composition according to Claim 1 which at least partially comprises a cleaning composition and the one or more benefit agents associated with the treating

composition comprise one or more cleaning agents that imparts a cleaning benefit to the one or more shoes.

44. A treating composition for treating one or more shoes according to Claim 1 wherein the treating composition comprises:

- a) one or more cleaning agents; and
- b) one or more conditioning agents

wherein cleaning benefits and/or conditioning benefits are imparted to the one or more shoes when the treating composition is applied to the one or more shoes prior to and/or during and/or after washing the one or more shoes.

45. A treating system for treating one or more shoes according to Claim 1 wherein the treating composition comprises:

- a) a cleaning composition comprising one or more cleaning agents capable of being applied in a manner such that the one or more cleaning agents contacts one or more exterior surfaces of the one or more shoes; and

- b) a conditioning composition physically and/or chemically separated from the cleaning composition of a) wherein the conditioning composition comprises one or more conditioning agents capable of being applied in a manner such that the one or more conditioning agents contacts one or more interior surfaces of the one or more shoes;

such that the cleaning composition and/or conditioning composition imparts cleaning benefits and/or conditioning benefits to the one or more shoes when the cleaning composition and/or conditioning composition are applied to the one or more shoes prior to and/or during and/or after washing the one or more shoes.

46. A treating composition according to Claim 1 comprising a cleaning composition which is in the form of a gel.

47. A treating composition according to Claim 1 comprising a conditioning composition which is in the form of a liquid.

48. The treating system according to Claim 45 wherein the cleaning composition has a pH that is greater than the pH of the conditioning composition.

49. The treating system according to Claim 45 wherein the cleaning composition has a pH, as determined in a 10% aqueous solution of the neat cleaning composition, that is in the range of from about 5 to about 11.

50. The treating system according to Claim 45 wherein the conditioning composition has a pH, as determined in a 10% aqueous solution of the neat conditioning composition, that is in the range of from about 2.5 to about 9.

51. The treating composition of Claim 1 wherein the one or more desired benefits endures washing of the one or more shoes.

52. The treating composition of Claim 1 wherein the one or more shoes comprise canvas, nylon, synthetic leather and/or natural leather-containing surfaces.

53. The treating composition of Claim 52 for treating shoes with natural leather-containing surfaces that it is essentially free of bleach, particularly chlorine bleach.

74. A product comprising a benefit agent-containing treating composition according to Claim 1, the product further including instructions for using the treating composition to treat a shoe, the instructions including the step of: contacting said shoe with an effective amount of

said treating composition for an effective amount of time such that said composition treats said shoe.

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